

II

96TH CONGRESS
2D SESSION

S. 3251

To amend the Internal Revenue Code of 1954 with respect to the tax treatment
of Americans abroad.

IN THE SENATE OF THE UNITED STATES

DECEMBER 5 (legislative day, NOVEMBER 20), 1980

Mr. MOYNIHAN introduced the following bill; which was read twice and referred
to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1954 with respect to
the tax treatment of Americans abroad.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the "Foreign Earned Income
5 Exclusion Act of 1980".

1 SEC. 2. PARTIAL EXCLUSION FOR EARNED INCOME FROM
2 SOURCES OUTSIDE THE UNITED STATES.

3 (a) IN GENERAL.—Section 911 of the Internal Revenue
4 Code of 1954 (relating to income earned by individuals in
5 certain camps) is amended to read as follows:

6 "SEC. 911. EARNED INCOME FROM SOURCES OUTSIDE THE
7 UNITED STATES.

8 "(a) GENERAL RULE.—There shall be excluded from
9 gross income and exempt from taxation under this subtitle 80
10 percent of amounts received from sources within a foreign
11 country or countries which constitute earned income attribut-
12 able to services performed during that portion of the taxable
13 year for which the taxpayer meets the eligibility require-
14 ments of subsection (b).

15 "(b) ELIGIBILITY.—A taxpayer is eligible for the exclu-
16 sion only if—

17 "(1) he is a citizen of the United States and he
18 establishes to the satisfaction of the Secretary that he
19 has been a bona fide resident of a foreign country or
20 countries for an uninterrupted period which includes an
21 entire taxable year, or

one year

22 "(2) he is a citizen or resident of the United
23 States and, during any period of 12 consecutive
24 months, he is present in a foreign country or countries
25 for at least 330 full days in such period.

1 “(c) LIMITATIONS.—No amount may be excluded under
2 subsection (a) which is—

3 “(1) received as a pension or annuity,

4 “(2) included in gross income by reason of section
5 402(b) (relating to taxability of beneficiary of nonex-
6 empt trust), section 403(c) (relating to taxability of
7 beneficiary under a nonqualified annuity), or section
8 403(d) (relating to taxability of beneficiary under cer-
9 tain forfeitable contracts purchased by exempt organi-
10 zations), or

11 “(3) paid by the United States or any agency
12 thereof to military or civilian officers or employees of
13 the United States, or for service as a Peace Corps vol-
14 unteer or volunteer leader.

15 “(d) DEFINITIONS; SPECIAL RULES.—For purposes of
16 this section—

17 “(1) DEFINITION OF EARNED INCOME.—The
18 term ‘earned income’ means wages, salaries, or profes-
19 sional fees, and other amounts received as compensa-
20 tion for personal services actually rendered, but does
21 not include that part of the compensation derived by
22 the taxpayer for personal services rendered by the tax-
23 payer to a corporation which represents a distribution
24 of earnings or profits rather than a reasonable allow-
25 ance as compensation for the personal services actually

1 rendered. In the case of a taxpayer engaged in a trade
2 or business in which both personal services and capital
3 are material income-producing factors, under regula-
4 tions prescribed by the Secretary, a reasonable allow-
5 ance as compensation for the personal services ren-
6 dered by the taxpayer, not in excess of 30 percent of
7 the taxpayer's share of the net profits of such trade or
8 business, shall be considered as earned income.

9 “(2) REQUIREMENT AS TO TIME OF RECEIPT.—

10 No amount received after the close of the taxable year
11 following the taxable year in which the services to
12 which the amounts are attributable are performed may
13 be excluded under subsection (a).

14 “(3) DEDUCTIONS AND CREDITS ATTRIBUTABLE
15 TO EXCLUDED INCOME NOT DEDUCTIBLE OR CREDIT-
16 ABLE.—No deduction or credit against the tax imposed
17 by this chapter shall be allowed under this title to the
18 extent that such deduction or credit is properly alloca-
19 ble to or chargeable against amounts excluded from
20 gross income under this section.

21 “(4) WAIVER OF PERIOD OF STAY IN FOREIGN
22 COUNTRY.—For purposes of subsection (b), an individ-
23 ual who for any period is present in a foreign country
24 and who—

25 “(A) leaves such foreign country—

1 “(i) during any period during which the
2 Secretary determines, after consultation with
3 the Secretary of State or his delegate, that
4 individuals were required to leave such for-
5 eign country because of war, civil unrest, or
6 similar adverse conditions in such foreign
7 country which precluded the normal conduct
8 of business by such individuals, and

9 “(ii) before meeting the requirements of
10 such subsection, and

11 “(B) establishes to the satisfaction of the
12 Secretary that he could reasonably have been ex-
13 pected to have met such requirements,
14 shall be treated as having met such requirements with
15 respect to that period during which he was present in
16 the foreign country.”.

17 (b) CONFORMING AMENDMENTS.—Sections 37(e)(9)(B),
18 63(e)(2), 105(h)(3)(B)(v), 410(b)(2)(C), 879(a)(1), 1303(c)(2),
19 1304(c)(3), and 1348(b)(1)(A) are each amended by striking
20 out “section 911(b)” and inserting in lieu thereof “section
21 911(d)(1)”.

22 (c) CLERICAL AMENDMENTS.—

23 (1) The table of sections for subpart B of part III
24 of subchapter N of chapter I of such Code is amended

1 by striking out the item relating to section 911 and in-
2 serting in lieu thereof the following:

"Sec. 911. Earned income from sources outside the United States."

3 (2) Section 43(c)(1)(C)(i) is amended by striking
4 out "relating to income earned by individuals in certain
5 camps outside the United States" and inserting in lieu
6 thereof "relating to earned income from sources out-
7 side the United States".

8 (3) Sections 1302(b)(2)(A)(i), 1304(b)(1),
9 1402(a)(8), 6012(c), and 6091(b)(1)(B)(iii) are each
10 amended by striking out "relating to income earned by
11 employees in certain camps" and inserting in lieu
12 thereof "relating to earned income from outside the
13 United States".

14 **SEC. 3. REPEAL OF DEDUCTION FOR CERTAIN EXPENSES OF**
15 **LIVING ABROAD.**

16 (a) **IN GENERAL.**—Section 913 of such Code (relating
17 to deduction for certain expenses of living abroad) is hereby
18 repealed.

19 (b) **CLERICAL AMENDMENTS.**—

20 (1) The table of sections for subpart B of part III
21 of subchapter N of chapter 1 is amended by striking
22 out the item relating to section 913.

23 (2) Section 43(c)(1) is amended by striking out
24 ", 913," as it appears in the title, by inserting "or"

7

1 after the comma at the end of subparagraph (i), and by
2 striking out subparagraph (ii).

3 (3) Section 6091(b)(1)(B)(iii) is amended by strik-
4 ing out "section 913 (relating to deduction for certain
5 expenses of living abroad),".

6 SEC. 4. EFFECTIVE DATE.

7 The amendments made by this Act shall apply with re-
8 spect to taxable years beginning after December 31, 1980.

○